

North Carolina Supreme Court Reverses Court of Appeals and Upholds 20-Year Construction Warranty



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Freedom of contract principles prevailed in the Supreme Court's recent ruling that a manufacturer waived application of **North Carolina's 6-year statute of repose** by extending an express 20-year warranty of its product. The opinion in **Christie v. Hartley** issued on December 19 reverses the Court of Appeals' 2013 holding that a homeowner's claims under a manufacturer's 20-year warranty were barred by the 6-year statute of repose, a disruptive decision which stood to impose a 6-year sunset on express warranties irrespective of the stated term. By reversing the Court of Appeals, the Supreme Court has restored confidence that an *express warranty* can be relied on for its full term.

The notion that a party could advertise a warranty for a period longer than legally enforceable is offensive. This, however, was the well-reasoned conclusion of the trial court and Court of Appeals in George and Deborah Christie's lawsuit against the manufacturer of a defective exterior cladding system used in the construction of their home. The basis for this conclusion was the 6-year statute of repose

applicable to construction claims, which serves as an absolute bar to actions for claims commenced more than six years after a project's completion.

Though many practitioners believed the statute of repose did not apply to express warranties, a 2008 Court of Appeals' opinion, **Roemer v. Preferred Roofing**, created uncertainty by restricting a homeowner's remedy under a "lifetime warranty" and denying monetary relief. This uncertainty shifted to concern when the Court of Appeals relied on Roemer to decide the Christies' case, finding its prior opinion instructive for its conclusion that the statute of repose serves as an outside limitation for **express warranty claims**. The potential far-reaching impact of this decision across the construction industry—including application to somewhat standard 10-year new-home warranties and longer term manufacturer's warranties of materials—led to considerable outside interest leading up to the Supreme Court's review.

In its opinion, the Supreme Court considered the conflict between the policy of the statute of repose as a safeguard against open-ended exposure to claims and the right of parties to negotiate and contract freely. Ultimately, the court concluded that at the intersection of these two policies, the beneficiary of the statute of repose is free to waive its protections and does so by extending an express warranty beyond the 6-year repose period. On this basis, the Supreme Court reversed the Court of Appeals, upholding the Christies' 20-year warranty and, in the process, preserving countless existing warranties extended industry-wide.

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